REMARKS

This application has been carefully reviewed in light of the non-final Office Action dated August 15, 2007. Claims 6 to 8, 12, 16 to 19, 22 to 27 and 29 to 39 have been cancelled herein, without prejudice or disclaimer of subject matter, and new claims 40 to 49 have been added. Amongst others claims, independent claims 1, 15, 21, and 28 have been amended herein. Reconsideration and further examination are respectfully requested.

Initially, the Applicants' undersigned representative thanks Examiner Graham and Supervisory Examiner Heweith for the thoughtful courtesies and kind treatment afforded during the personal interview conducted on November 13, 2007 (inadvertently reflected as "13 October, 2007" on the Examiner's Interview Summary). In the interview, the Examiner agreed that the substance of the proposed features "were not taught by Barritz." All parties agreed that the interview aided the mutual understanding of the disclosure, and generally advanced prosecution.

In the Office Action, claims 1, 15, 21 and 28 were rejected under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter. Without conceding the correctness of this rejection and the mischaracterization that these claims are directed to "an algorithm," each of the independent claims have been amended to further recite the feature that a revenue allocation for the digital content is generated based on the dynamically set conditioning coefficient and the usage information, the revenue allocation affecting a royalty payment made to the creator of the digital content, a feature which is clearly useful, concrete and tangible. Support for this feature is described throughout the specification, including at least paragraphs [0030] and [0031] of the specification. Withdrawal of the § 101 rejection and further examination are respectfully requested.

Claims 1 to 39 were rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 6,029,145 ("Barritz"). As indicated above, claims 6 to 8, 12, 16 to 19, 22 to 27 and 29 to 39 have been cancelled herein, without prejudice or disclaimer of subject matter, and without conceding the correctness of the rejection. In response, the independent claims have been amended to further clarify the features that: *i)* a value for each of a plurality of coefficient drivers is received <u>via a user interface</u>, where each coefficient driver provides information <u>defining a market value of a creator</u> of digital content, or *ii)* a conditioning coefficient is *<u>dynamically</u>* <u>set based on the selected</u>

coefficient driver values. Since support for these features is found throughout the disclosure, including at least paragraphs [0064] to [0068], and FIG. 4B, no new matter is believed to have been added. Withdrawal of the § 102 rejection and further examination are respectfully requested.

The present disclosure is generally directed to the allocation of digital content subscription revenue. A value is selected via a user interface for each of a plurality of coefficient drivers, where each coefficient driver provides information defining a market value of a creator of digital content, and a conditioning coefficient is dynamically set based on the selected coefficient driver values. Usage information relating to usage of the digital content is received, and a revenue allocation for the digital content is generated based on the dynamically set conditioning coefficient and the usage information, the revenue allocation affecting a royalty payment made to the creator of the digital content.

Independent claim 1 recites a computer-implemented method of allocating digital content subscription revenue, the method including receiving, via a user interface, a value for each of a plurality of coefficient drivers, where each coefficient driver provides information defining a market value of a creator of digital content, and dynamically setting a conditioning coefficient based on the selected coefficient driver values. The method also includes receiving usage information relating to usage of the digital content, and generating a revenue allocation for the digital content based on the dynamically set conditioning coefficient and the usage information, the revenue allocation affecting a royalty payment made to the creator of the digital content.

Independent claims 15, 21 and 28 recite systems and a medium that are substantially analogous to the method recited by independent claim 1.

The applied reference is not seen to teach, disclose, or to suggest the foregoing features recited by the independent claims. In particular, Barritz is not seen to disclose at least the features that: *i)* a value for each of a plurality of coefficient drivers is received <u>via a user interface</u>, where each coefficient driver provides information <u>defining a market value of a creator</u> of digital content, or *ii)* a conditioning coefficient is *<u>dynamically</u> <u>set based on the selected</u> <u>coefficient driver values</u>*.

Barritz describes the collation, correlation, and redistribution of information about the use of proprietary products including copyrighted works and licensed software products. *See* Barritz,

Abstract. If a billing, collection or disbursement function is to be performed, usage data for each account is collected and collated with billing/license terms that are "stored in the memory of the CP 500." *See* Barritz, col. 13, ll. 63 to 67. Although it is true that the CP 500 stores in the memory a database of license terms such that the CP 500 could render an invoice to a user if license limits have been exceed, nowhere are these license terms described as anything other than predetermined or "stored." *See* col. 12, ll. 45 to 60. Since the costs are not seen to be associated with a dynamically set conditioning coefficient, Barritz cannot be seen to disclose (nor does the Office Action even *assert* that Barritz discloses) at least the features that: *i)* a value for each of a plurality of coefficient drivers is received <u>via a user interface</u>, where each coefficient driver provides information <u>defining a market value of a creator</u> of digital content, or *ii)* a conditioning coefficient is *<u>dynamically</u> <u>set based on the selected coefficient driver values</u>*. As indicated above, the Examiner has also acknowledged in the Interview Summary that Barritz does not teach these features.

Accordingly, based on the foregoing amendments and remarks, independent claims 1, 15, 21, and 28 are believed to be allowable over the applied reference. The remaining claims in the application are each dependent on the independent claim, and are thus believed to be allowable for at least the same reasons. Because each claim is deemed to define additional aspects of the disclosure, however, the individual consideration of each claim on its own merits is respectfully requested.

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, objection, issue, or comment, including the Office Action's characterizations of the reference, does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment or cancellation of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment or cancellation. Since the amendments made herein have been made solely in an effort to expedite advancement of this case, the Applicants

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reserve the right to prosecute the rejected claims in further prosecution of this or related applications.

No other matters being raised, it is believed that the entire application is fully in condition for allowance and such action is courteously solicited.

No fees are believed to be due at this time. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date:_____November 15, 2007_____   _____/David E. A. Jordan/_____
                                                David E. A. Jordan
                                                Reg. No. 50,325

Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500
Telephone: (202) 783-5070
Facsimile: (202) 783-2331
40443330.doc